Copy

IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

March 11, 2008

Complaint: #15430
15073

Barb Judkins, Administrator
Bickford Cottage Assisted Living
101 New Castle Rd.
Marshalltown, IA 50158-5241

RE: Complaint Investigation Report, Bickford Cottage Assisted Living, Marshalltown, IA

Dear Ms. Judkins:

The Department of Inspections and Appeals (DIA) has reviewed the Plan of Correction (POC) and your Request for Reconsideration in response to the Complaint Investigation Report dated January 16, 2008. Based on the information provided, DIA accepts your Request for Reconsideration regarding Criteria for exclusion of tenants. DIA also accepts the POC for the remaining ten Regulatory Insufficiencies. The Final evaluation report is enclosed.

The Program may appeal the DIA decision in accordance to 321 IAC 26.4, within 30 days of notice, by submitting a request for appeal to the DIA. Hearings will be held pursuant to 481 IAC Chapter 10. If the program appeals, the civil penalty will be suspended, pending appeal. If the program does not appeal, the fine is due within 30 days of notice.

The Department's findings must be based on the current situation, including but not limited to: staff interviews, documentation, monitor observation and tenant interviews.

We thank you and your staff for your cooperation in the investigation of this Complaint. If you have any questions, please contact me at 515-281-5003.

Sincerely,

Connie Schaffer

Connie Schaffer
Certification Coordinator – Central Iowa
Health Facilities Division
Adult Services Bureau

Iowa Department of Inspections and Appeals
Assisted Living Program
Final Complaint Investigation Report

Assisted Living Program:

Barb Judkins, Administrator
Bickford Cottage Assisted Living
101 New Castle Rd.
Marshalltown, IA 50158

Complaint Intake #: 15430
15073

Date of Investigation:

January 16, 2008

Monitor(s):

Hal L. Chase, RN BSN MPH
Rose Boccella, MS

Definitions:

The following definitions are relevant:

Regulatory Insufficiency - A violation of a statutory or rule provision within the Iowa Code or Iowa Administrative Code (IAC) governing assisted living programs. A regulatory insufficiency requires a plan of correction to be presented to, and approved by, the Department of Inspections and Appeals (DIA).

Plan of Correction - A written response to one or more regulatory insufficiencies that are rule violations [321 IAC 26.2(5)(a)]. The plan should identify how, and by a specific date, an insufficiency will be corrected. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Dementia-specific assisted living program - An assisted living program certified under 321 IAC - chapter 25 that either serves five or more tenants with dementia or cognitive disorder staged between 4 and 7 on the Global Deterioration Scale or holds itself out as providing special care for persons with cognitive disorder or dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint investigation on-site visit was conducted at Bickford Cottage Assisted Living on January 16, 2008. In preparing this report, the following information was considered:

Current Program Census:

General Population Program (GPP)* – Not applicable

Dementia Specific Program (DSP)* – A program that is a Dementia Specific Program by definition or holds itself out as providing specialized care in a dedicated setting but may have tenants without cognitive disorder

Current number of tenants in a DSP that serves 5 or more tenants with dementia or cognitive disorder staged between 4 and 7 on the Global Deterioration Scale (GDS):	6
Current number of tenants without cognitive disorder:	32
Total Population:	38

***These are the census numbers represented by the program to be applicable at the time of the on-site.**

Accreditation Status – Not applicable.

Complaint History – There were substantiated complaints in the areas of Evaluation of Tenant, Service Plans and Staffing during this certification period.

Complaint Investigation – The complaint investigator(s) made the observations detailed in the following areas.

A. Evaluation of Tenant - The program evaluates each tenant's functional and cognitive abilities and health status and the determination of needed services as required. [321 IAC 25.23(1) and/or (2)]

During the course of the investigation, the following information was obtained:

- Monitoring Observation: Tenant #1, an 87 year old, was admitted on 2-23-04 and has diagnoses of: Hypertension (HTN), Diabetes Mellitus and Cancer. A cognitive evaluation was completed on 12-18-07, staging the tenant at a four on the Global Deterioration Scale (GDS), indicating moderate cognitive decline. Progress notes of 11-16-07 through 1-5-08 indicated the tenant refused cares and was physically aggressive. The program did not complete a functional, cognitive and health evaluation with a change in condition.

  Tenant #2, an 88 year old, was admitted on 10-12-01 and has diagnoses of: Depressive Disorder, Cerebral Vascular Accident, Osteoarthritis, Recurrent Urinary Tract Infection, Fibromyalgia, Status Post Hysterectomy and Status Post Appendectomy A cognitive evaluation was completed on 1-08, (the day of the month was not listed), staging the tenant at a five on the GDS, indicating moderately severe cognitive decline. Progress notes of 11-18-07 through 1-13-08 indicated numerous incidents of refusing toileting assistance, attempted elopements, refusing medications and physical aggression toward staff. The program did not complete functional, cognitive and health evaluations with a change in condition.

- Regulatory Insufficiency: The program did not complete a functional, cognitive and health evaluation as needed, to determine the tenant's continued eligibility for the program and to determine any modifications to needed services. (25.23(2))

B. Criteria for exclusion of tenants - Program does not admit or retain tenants that require a higher level of care, unless a written exception has been applied for and approved. [321 IAC 25.23(3); 25.24]

During the course of the investigation, the following information was obtained:

- Monitoring Observation: Tenant #2's progress notes of 12-3-07 through 1-13-08 indicated numerous incidents of physical aggression toward staff when redirected by staff from attempted elopements, assistance with toileting, personal cares and the administration of medications. Progress notes of 12-3-07 indicated the tenant slapped staff's hands and arms when staff attempted to provide personal cares. On 12-8-07 the tenant pushed his/her chair at staff when staff attempted to provide personal cares. On 12-20-07 the tenant refused cares, hit and slapped staff across the face. On 12-29-07, the tenant struck staff when redirected from an attempted elopement. On 1-13-08 the tenant struck staff several times when personal cares were done.

- Regulatory Insufficiency: The program did not exclude a tenant who exceeded occupancy and retention criteria. (25.23(3)c(2))

In response to the preliminary identification of Tenant #2 exceeding occupancy criteria, the program provided input, subsequent to the on-site, that the tenant's current function and health care needs are, at this time, within the parameters allowed in an assisted living program.

C. Service Plan – Program has an individualized service plan developed and updated for each tenant as required. [321 IAC 25.28]

During the course of the investigation, the following information was obtained:

- Monitoring Observation: Tenant #1's service plan of 12-18-07 indicated staff were to assist with evening cares. The service plan indicated the tenant becomes easily agitated toward staff and needed redirection when verbally aggressive. Progress notes of 11-16-07 through 1-5-08 indicated the tenant was physically aggressive when cares were performed. The program did not update the service plan to establish interventions related to physical aggression.

  Tenant #2's service plan of 1-4-08 included interventions related to the tenant's anxiousness and physical aggression toward staff. Progress notes of 11-18-07 through 1-13-08 indicated numerous incidents of refusing toileting assistance, attempted elopements, refusing medications and physical aggression toward staff. The program did not update the service plan to establish interventions related to this behavior during the onset beginning in November, 2007

- Regulatory Insufficiency: The program did not update the tenant's service plan with a change in condition. (25.28 (3))

- Regulatory Insufficiency: The program did not develop a service plan that was individualized to meet the tenant's identified needs and requests for assistance and expected outcomes. (25.28 (4))

D. Nurse Review - Program provides a registered nurse to ensure the appropriate administration and documentation of medications, ensure that physician orders are current, and assess and document the tenants' health related activities. [321 IAC 25.30]

During the course of the investigation, the following information was obtained:

- Monitoring Observation: Tenant #1's progress notes of 11-16-07 through 1-5-08 indicated numerous incidents of physical aggression toward staff and refusal of cares. The registered nurse (RN) did not complete a nurse review as needed with a change in condition.

  Tenant #2's progress notes of 11-18-07 through 1-13-08 indicated numerous incidents of refusing toileting assistance, attempted elopements, refusing medications and physical aggression toward staff. The RN did not complete a nurse review as needed with a change in condition.

  Tenant #1, #2 and #3's nurse reviews were completed quarterly as required but did not reflect changes in health status of the previous 90-days.

- Regulatory Insufficiency: The program did not assess and document the health status of each tenant, make recommendations and referrals as appropriate, and monitor the progress on previous recommendations when there are changes in health status. (25.30(3))

E. Staffing - The provisions of this section address the program's staffing and training practices and associated documentation in responding to the identified needs of the tenant. [321 IAC 25.33]

Complaint Allegation #15430: It is alleged a staff grabbed Tenant #1's wrist when giving cares, resulting in a "large bruise" on the tenant's wrist.

- Monitoring Observation: Tenant #1's progress notes of 1-5-08 indicated the tenant hit staff and tried to grab another staff's neck when personal cares were given. Progress notes of 1-6-08 indicated a large "dark purple reddish bruise" and swelling noted on the left hand and wrist.

  Incident reports completed by Staff #1, #2 and #3 indicated three staff entered the tenant's apartment with the intent of changing the tenant's clothes and putting on pajamas. Staff #1's incident report indicated the tenant reacted out of fear and would have calmed down if re-approached. Staff #2's incident report indicated the tenant "didn't want to take off shirt" and was swinging at staff. Staff took the tenant to the bathroom for perineal care and when taking down the tenant's pants, the tenant grabbed a staff person's neck. Another staff person took the tenant's hand and removed it from the staff person's neck.

  Tenant #2's progress notes of 11-18-07 through 1-13-08 indicated numerous incidents of refusing toileting assistance, attempted elopements, refusing medications and physical aggression toward staff.

  The RN stated she had told staff on numerous occasions, for one staff to approach and work with Tenant #1 and other tenants with Dementia; and not to have two or three staff provide personal cares for these tenants. Staff #5 stated "some staff" take two to three staff when giving cares to tenants. Staff #6 stated "some staff will re-approach, some don't" and staff do not always, "take the time to listen" to the tenant. Staff did not implement the training received for the assigned task.

  Tenant #3, a 61 year old, was admitted on 2-3-05 and has diagnoses of: Multiple Sclerosis, Weakness and HTN. The tenant's service plan of 12-18-07 indicated the tenant requires assist of one and two staff with the use of a Hoyer lift for transfers. Progress notes of 11-19-07 through 1-16-08 indicated the tenant requires the assist of two staff for transfer. Staff #5 stated 60% of the time the tenant requires two staff to transfer, but there is three staff who manages alone with transferring the tenant. Staff #5 stated the Hoyer lift is used at night because it is the "hardest time." Staff #6 stated the tenant will stand up with the assist of one staff and most staff are more comfortable with using two staff to assist with transfer and staff at night have back problems and use the Hoyer. The RN stated day and evening staff will transfer the tenant with the assistance of one staff. The RN stated night staff will often use the Hoyer lift because some of the night staff have hurt their back when transferring the tenant. A monitor observed the tenant being transferred with the assist of one staff

two separate times during the onsite. Staff were not sufficiently trained to meet the identified needs of the tenant.

- Regulatory Insufficiency: The program did not have sufficiently trained staff available at all times to fully meet tenants' identified needs. (25.33(1))

- Regulatory Insufficiency: The owner or management corporation of the program did not ensure that all personnel employ by or contracting with the program received training appropriate to assigned tasks and target population. (25.33(5))

F. Dementia-specific education for program personnel – A dementia-specific program shall employ or contract with personnel who have received appropriate dementia-specific education and training. [321 IAC 25.34]

During the course of the investigation, the following information was obtained:

- Monitoring Observation: Tenant #1's progress notes of 11-16-07 through 1-5-08 indicated the tenant was physically aggressive when cares were performed. Progress notes of 11-16-07 indicated the tenant was confused, agitated and refused cares. On 11-19-07 the tenant was sitting "at the wrong spot" in the dining room, was "very angered, yelling" and trying to strike staff. On 11-26-07 staff attempted to administer medications, tenant threw the applesauce with medications toward staff, hitting staff in the face. On 12-15-07 the tenant refused personal cares three separate times. On 1-5-08 the tenant hit staff and tried to grab another staff person's neck when staff tried to provide assistance with personal cares.

  The RN stated she had told staff on numerous occasions for one staff to approach and work with this tenant and other tenants with Dementia and not to have two or three staff provide personal cares for this tenant. Staff #5 stated "some staff" take two to three staff when giving cares to tenant's. Staff #6 stated "some staff will re-approach – some don't" and staff do not always "take the time to listen to her."

  Staff #2 completed six hours of dementia training on 12-30-06 and no annual training was received in 2007.

- Regulatory Insufficiency: The program did not implement dementia-specific training related to skills in working with challenging tenants and techniques in simplifying cueing and redirection. (25.34 (2)(i.j.))

- Regulatory Insufficiency: The program did not consistently provide a minimum of six hours of dementia specific continuing education annually. (25.34(3))

G. Record Checks – The program conducts applicable employee record checks. [Iowa Code section 135C.33(5)]

Complaint Allegation #15073: It is alleged the program hired a staff person with two founded cases of dependent adult abuse and a pending criminal charge.

- Monitoring Observation: Staff #4 was hired on 11-8-05 A review of staff #4's file indicated the program completed a criminal background check, child abuse and

dependent adult abuse check on 11-9-05 and not prior to employment. The criminal background and dependent adult abuse check indicated the program needed to initiate a record check evaluation related to child abuse and to initiate a request for dependent adult abuse registry information. The program initiated both requests on 11-9-05 and received a response to both inquires on 11-16-05. Information received of the initial request for dependent adult abuse registry indicated the registry did not contain information pertaining to the staff person. Information received of the initial request for child abuse information indicated the staff person did not meet the criteria for employment under the Iowa Statute. The program continued to employ the staff person until 1-30-06 at which time the staff person resigned. Staff #4 had received a letter from DIA dated January 27, 2006, that her name had been placed on the Department of Human Services Central Abuse Registry, as the result of having committed dependent adult abuse of a resident of a nursing facility on or about October 30, 2005

During the course of the investigation, the following information was obtained:

- Monitoring Observation: Staff #3 was hired on 5-3-05 A review of Staff #3's file indicated the program completed a criminal background, child abuse and dependent adult abuse check on 5-11-05 and not prior to employment.

- Regulatory Insufficiency: The program employed a person after the Department of Human Services determined the person had a record of founded child abuse, which warranted prohibition of employment. (135 C.33(4)

- Regulatory Insufficiency: The program did not complete criminal and dependent adult abuse checks of staff prior to employment. (135C.33(5))

Dated this 18th day of February, 2008